IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 23053 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DALSUKHBHAI JESARAM SOLANKI - Petitioner(s)

Versus

STATE OF GUJARAT - Respondent(s)

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Appearance :

MR RC JANI for Petitioner(s) : 1,
MR. PRACHCHHAK, ASST. GOVERNMENT PLEADER for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 29/11/2005

ORAL JUDGMENT

1.In this petition under Article 226 of the Constitution of India, the petitioner has challenged the legality and validity of the order passed by the Deputy Secretary, Forest & Environment Department, State of

Gujarat dated 21.11.2005 passed in a revision application filed under Section 10 of the Saurashtra Falling of Trees Act; 1951 in dismissing the same and confirming the order passed by the Mamlatdar, Chanasma dated 2.6.2004 and Deputy Collector, Patan dated 31.8.2004 by which the Mamlatdar, Chanasma has imposed the penalty/fine of Rs.1000/- for cutting the trees and selling it without prior permission of the competent authority as required under the provisions of the aforesaid Act.

2.The petitioner was the Sarpanch of village Dhinoj, Taluka Chanasma, District Patan and proceedings came to be initiated against him under the provisions of the aforesaid Act alleging inter alia that he has sold the trees after cutting it without prior permission of the competent authority. After giving an opportunity and holding necessary inquiry and even after considering the statement of the Sarpanch and other persons, the Mamlatdar, Chanasma passed an order imposing the fine of Rs.1000/- holding the petitioner as guilty. Being aggrieved and dissatisfied with the said order, the petitioner preferred appeal before the Deputy Collector being Case No.2/2004 and the Deputy Collector, Patan by

its order dated 31.8.2004 dismissed the said appeal against which the petitioner preferred revision application before the State Government which also came to be dismissed by the Revisional Authority by its judgment and order dated 21.11.2005 against which, the petitioner has preferred the present Special Civil Application under Article 226 of the Constitution of India.

3. Shri R.C.Jani, learned advocate appearing on behalf of the petitioner has vehemently submitted that the petitioner being an illiterate person was not aware of the propositions of law and for getting necessary approval/permission from the competent authority. He has also further submitted that the woods/trees were sold by public auction and the same was approved by the Gram Panchayat and therefore, it cannot be said that there is any illegality committed by the petitioner and therefore, it is requested to allow the present Special Civil Application.

4. It is an admitted position that the petitioner is a Sarpanch of the village and therefore, he is supposed to know the law and he cannot plead ignorance of law

and if the petitioner-Sarpanch who is a leader of the village pleads ignorance of law then as such he has no authority to continue as Sarpanch i.e. a leader of the Panchayat. It is an admitted position that the valuable trees of a large quantity has been sold after cutting it for a meagre amount of Rs.21000/- only. It is required to be noted that the petitioner has sold 3600 kg. Babool trees and other 500 tones Ganda Baval, 400 tones branches of Pimpal tree and 1000 tones of Amli. The allegation which is proved against the petitioner is that even the aforesaid woods/branches of trees have been sold by the petitioner without getting prior permission and even without determining the upset price by the competent authority. The allegation which is proved against the petitioner is that the aforesaid large quantity of woods/trees have been sold by the petitioner and the Panchayat for a meagre amount of Rs.21000/- only. Even the Mamlatdar has also directed to initiate the proceedings against the Talati-cum-Mantri. It is also required to be noted that even in the so-called public auction only few persons and by and large the same persons have taken part and therefore, the contention even selling the trees by public auction also prima facie seems to be very

doubtful and/or not beyond doubt. Shri Jani, learned advocate appearing on behalf of the petitioner has requested that instead of fine of Rs.1000/- lesser amount of fine being imposed. Considering the aforesaid facts and circumstances of the case and the large quantity of woods/trees sold by the petitioner without getting any prior permission from the competent authority and not only that but selling it even without determining the upset price and considering the concurrent findings of fact given by all the three authorities below, the interference of this Court exercising powers under Article 226 and 227 of the Constitution of India in the facts and circumstances of the case, is not warranted.

5. Under the circumstances, there is no substance in the present Special Civil Application and the same is required to be dismissed and is, accordingly, dismissed.

(M.R.SHAH, J.)

kdc.